

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

**Alastor Home Care
Petitioner**

File No. 21-1778

v

**Auto Club Group Insurance Company
Respondent**

**Issued and entered
this 14th day of February 2022
by Sarah Wohlford
Special Deputy Director**

ORDER

I. PROCEDURAL BACKGROUND

On November 24, 2021, Alastor Home Care (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Auto Club Group Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner a bill denial on August 23, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on November 29, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on November 29, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 15, 2021.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on December 17, 2021. The Department issued a notice of extension to both parties on January 11, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for massage therapy treatments rendered on July 2 and 6, 2021 under Current Procedural Terminology (CPT) code 97140 for manual therapy. In its *Explanation of Benefits* (EOB) letter, the Respondent requested additional documentation to make a reasonable and necessary determination and stated that the “massage therapy daily note lacks subjective and objective findings, a total number of sessions completed to date, functional status improvement, and relatedness of findings to the injury to assist in substantiating the medical necessity for the treatment.” The Respondent further stated in its EOB that it determined that the treatment at issue “exceeds the period of care for either utilization or relatedness.”

With its appeal request, the Petitioner submitted medical documentation from the injured person’s physical medicine and rehabilitation providers indicating that the injured person was diagnosed with a traumatic brain injury (TBI), and C5-C7 and C6 tetraplegia, related to a motor vehicle accident in July of 2001. The Petitioner’s submitted medical records also noted that the injured person’s condition included spasticity, neurogenic bowel and bladder, and history of pressure ulcer with continued high risk. The Petitioner submitted supporting medical literature regarding management of the injured person’s diagnoses and argued that massage therapy treatment is “strongly supported by peer-reviewed scientific literature.”

The Petitioner’s request for an appeal further stated:

[The injured person] spent 10 years living in...a “step down” unit due to his inability to complete his activities of daily living (ADLs) without constant supervision as a result of the aforementioned injuries. In June 2019, [the injured person] moved into a handicap accessible apartment where he continues to receive attendant care services to complete his ADLs. Specifically, his [spinal cord injury] and TBI have resulted in significant musculoskeletal dysfunction that often manifests as debilitating muscle spasticity and contracture which inhibits his ability to perform his ADLs on his own...[Massage therapy] shows significant benefits in reducing feelings of depression and anxiety in the patients who receive it, and stimulate the healing of connective tissue leading to a holistic improvement in quality of life... Manual manipulation of the muscles helps alleviate pain, reduce muscle tightness, free up joint movement, and results in an overall reduction in feelings of depression and anxiety. Without this level of therapeutic intervention, [the injured person] is at a high risk for a significant decline in neuromuscular status.

In its reply, the Respondent reaffirmed its position and cited American College of Occupational and Environmental Medicine (ACOEM) guidelines for chronic pain. The Respondent stated that “there is no recommendation for myofascial release for treatment of chronic persistent pain” and that “massage is recommended for select use in chronic cervicothoracic pain as an adjunct to more efficacious treatments consisting primarily of a graded aerobic and strengthening exercise program.”

The Respondent further noted in its reply:

A prior denial of these requests was made as the medical records that were received did not support these requests. Additional medicals have been received and reviewed. In accordance with ACOEM, Cervical and Thoracic Spine Disorders, 10 [and] up to 12 visits can be recommended. The medical records do not support this request as the [injured person] has received greater than 30 sessions...since January 8, 2021 with ongoing symptoms.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a physician with an active practice who is board-certified in physical medicine and rehabilitation with additional certification in electrodiagnostic medicine and acupuncture. In its report, the IRO reviewer referenced R 500.61(i), which defines "medically accepted standards" as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on Official Disability Guidelines (ODG) in relation to manual and massage therapy for its recommendation.

The IRO reviewer explained:

The [injured person] is a 55-year-old male with permanent paralysis/tetraplegia due to a cervical C6 spinal cord injury, neck pain, back pain, and traumatic brain injury following a motor vehicle accident on 7/30/01. The Official Disability Guidelines recommend a trial of manual and massage therapy for 6 visits over 2 weeks with evidence of objective functional improvement and then up to 18 visits over 6-8 weeks for spinal pain.

The IRO reviewer further noted that the injured person received more than 30 treatment sessions since January 8, 2021. The IRO reviewer opined:

The Official Disability Guidelines recommend a trial of manual and massage therapy for 6 visits over 2 weeks with evidence of objective functional improvement and then up to 18 visits over 6-8 weeks for spinal pain. The recommended 18 visits for manual and massage therapy have been exceeded and therefore the

manual and massage therapy visits on 7/2/21 and 7/6/21 would be considered overutilized/not medically necessary.

The IRO reviewer recommended that the Director uphold the Respondent's determination that the massage therapy treatments provided to the injured person on July 2 and 6, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).


IV. ORDER

The Director upholds the Respondent's determination dated August 23, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X 

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford